

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

RICHARD GIBBS on behalf of himself, RICHARD  
GIBBS on behalf of all other persons similarly situated,

Plaintiff,

v.

WAL-MART ASSOCIATES, INC. and any other  
affiliated entity that employed Plaintiff and members of  
the putative class,

Defendant.

Case No. 6:23-cv-00300-DNH-ATB

STIPULATION AND ORDER  
WITHDRAWING PLAINTIFF'S  
FIRST CAUSE OF ACTION AND  
EXTENDING DEFENDANT'S TIME  
TO RESPOND TO THE  
COMPLAINT AND ADJOURNING  
INITIAL RULE 16 CONFERENCE

**IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned counsel of record, that Plaintiff hereby dismisses his first cause of action pursuant to FRCP 41(a)(1)(A)(ii) for violation of 12 N.Y.C.R.R. § 146-1.7, New York Uniform Maintenance Pay, on behalf of himself and the putative class, as pled in Plaintiffs' Complaint dated January 22, 2023 (Dkt. 2), with prejudice.

**IT IS FURTHER STIPULATED AND AGREED**, by and between the undersigned counsel of record, that the time for Defendant Wal-Mart Associates, Inc. to answer or otherwise respond to Plaintiff's Complaint in the above-captioned matter shall be extended through and including June 12, 2023. This is Defendant's third request for an extension and the request is made, subject to the approval of the Court, in good faith as the parties are currently engaged in discussions concerning the resolution of this matter.

**IT IS FURTHER STIPULATED AND AGREED**, by and between the undersigned counsel of record, subject to the approval of the Court, that the Initial Rule 16 Conference currently scheduled for June 1, 2023 be adjourned to a date to be set by the Court on or after June 26, 2023.

**NOW WHEREFORE**, the undersigned respectfully request that this Court grant leave to Plaintiff to amend his Complaint to withdraw the first cause of action on behalf of himself and the putative class; extend the time for Defendant to answer or otherwise respond to the Complaint, up to and including June 12, 2023; and adjourn the Initial Rule 16 conference to a date on or after June 26, 2023.

Melville, New York  
Dated: May 11, 2023

**LAW OFFICE OF MOHAMMED GANGAT**  
Attorneys for Plaintiff

**LITTLER MENDELSON, P.C.**  
Attorneys for Defendant

By: /s/ Owen Keough  
Owen Keough, Esq.  
675 Third Avenue, Suite 1810  
New York, NY 10017  
(718) 669-0714

By: /s/ Daniel Gomez-Sanchez  
Daniel Gomez-Sanchez, Esq.  
William Anthony, Esq.  
Brittany R. Frank, Esq.  
290 Broadhollow Road, Suite 305  
Melville, NY 11747  
(631) 247-4713

SO ORDERED:

IT IS SO ORDERED:

  
David N. Hurd  
U.S. District Judge

Dated: 05-12-2023  
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